

REMARKS

The Official Action mailed September 2, 2008, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Also, filed concurrently herewith is a *Request for Continued Examination*. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on July 24, 2003; March 29, 2006; and April 24, 2007.

Claims 1-21 are pending in the present application, of which claims 1-6 and 13-15 are independent. Claims 2, 4, 6, 8, 10 and 12-18 have been withdrawn from consideration. Accordingly, claims 1, 3, 5, 7, 9, 11 and 19-21 are currently elected, of which claims 1, 3 and 5 are independent. Claims 1, 3 and 5 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 1, 3, 5, 7, 9, 11 and 19-21 as obvious based on the combination of U.S. Patent No. 6,333,493 to Sakurai; U.S. Patent No. 6,105,274 to Ballantine and U.S. Publication No. 2002/0008098 to Buchner. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found

either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. Independent claims 1, 3 and 5 have been amended to recite, among other features, that the radiation from the lamp light source is a pulsed and linear light, which is supported in the present specification, for example, by page 15, lines 15-18. The Applicant respectfully submits that Sakurai, Ballantine and Buchner, either alone or in combination, do not teach or suggest the above-referenced features of the present invention.

Since Sakurai, Ballantine and Buchner do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Paragraph 3 of the Official Action rejects claims 1, 3, 5, 7, 9, 11 and 19-21 under the doctrine of obviousness-type double patenting over the combination of claims 13-24 of U.S. Patent No. 7,179,729 to Dairiki, Ballantine and Buchner. Also, the Official Action rejects claims 1 and 19 as obvious based on the combination of claims 14 and 20 of U.S. Patent No. 6,759,313 to Yamazaki, Ballantine and Buchner. The Applicant respectfully submits that the amended independent claims of the subject application are patentably distinct from the alleged combination of the claims of the Dairiki '729 or Yamazaki '313 patents, Ballantine and Buchner.

As stated in MPEP § 804, under the heading "Obviousness-Type," in order to form an obviousness-type double patenting rejection, a claim in the present application

must define an invention that is merely an obvious variation of an invention claimed in the prior art patent, and the claimed subject matter must not be patentably distinct from the subject matter claimed in a commonly owned patent. Also, the specification and drawings of the patent principally underlying the double patenting rejection are not considered prior art.

The Applicant respectfully traverses the obviousness-type double patenting rejection. As noted above, the independent claims of the present application have been amended to recite that the radiation from the lamp light source is a pulsed and linear light. The Applicant respectfully submits that the alleged combination of the claims of the Dairiki '729 or Yamazaki '313 patents, Ballantine and Buchner do not teach or suggest the above-referenced features of the present claims.

It is respectfully submitted that the claims of the present application are not a timewise extension of the invention as claimed in the claims of the Dairiki '729 or Yamazaki '313 patents, either alone or in combination with Ballantine and Buchner. Reconsideration and withdrawal of the obviousness-type double patenting rejections are requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

  
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